



SANDRA DAY O'CONNOR  
COLLEGE of LAW

ARIZONA STATE UNIVERSITY

Second Annual

# Sustainability Conference of American Legal Educators

**FRIDAY, MAY 13, 2016**

Sandra Day O'Connor College of Law  
Arizona State University – Tempe, Arizona

**Program on Law & Sustainability**





# PROGRAM

**8:00 a.m. – 8:30 a.m.:** **Check-in and Continental Breakfast**

**8:30 a.m. – 8:50 a.m.:** **Welcome (Great Hall)**  
Troy Rule, Faculty Director  
*Program on Law and Sustainability*

## Session 1

**9:00 a.m. – 10:20 a.m.:**

### **Panel: “Energy and Sustainability” (Rm. 105)**

- Alexandra B. Klass, University of Minnesota Law School  
*“Future Proofing Energy Transport Law”*
- Bruce Huber, Notre Dame Law School  
*“Checks, Balances, and Nuclear Waste”*
- Lincoln L. Davies, University of Utah S.J. Quinney College of Law  
*“State Renewable Portfolio Standards Twenty Years In – Where Are We Now?”*
- Elizabeth J. Wilson, University of Minnesota Humphrey School of Public Affairs  
*“Remaking Energy: The Critical Role of Energy Consumption Data”*

### **Panel: “International Law, Sustainable Development, and Environmental Justice: The Intersections of Race, Poverty and Indigeneity” (Rm. 114)**

- Sara Seck, Western University Law School, Ontario, Canada  
*“International Law, Environmental Justice, and the Rights of Women and Girls in Mining”*
- Sumudu Atapattu, University of Wisconsin Law School  
*“Climate Justice and Vulnerable Groups: Synergies, Strategies and Challenges”*
- Carmen G. Gonzalez, Seattle University School of Law  
*“Environmental Racism, American Exceptionalism, and International Law”*
- Elizabeth Kronk Warner, University of Kansas School of Law  
*“Tribes and Environmental Justice: Domestic and International Law Dimensions”*

### **Freestanding Presentations: Sustainability Policy Innovation (Rm. 118)**

- Blake Hudson, Louisiana State University Law Center  
*“Can Wood Pellet Markets Help Save Southern Forests?”*
- Albert Lin, University of California-Davis School of Law  
*“Distributed Innovation and Environmental Law”*
- Roberta Mann, University of Oregon School of Law  
*“Tax Fuel or Miles?”*
- Lee Paddock, The George Washington University Law School  
*“Private Sustainability Governance”*

## Session 2

**10:30 a.m. – 11:50 a.m.:**

### **Panel: “Good ‘Old’ Zoning and Climate Change: Help or Hindrance?” (Rm. 105)**

- John R. Nolon, Land Use Law Center at Pace Law School  
*“Zoning in Renewable Energy Systems: Lessons from the Solar Wars”*
- Hari Osofsky, University of Minnesota Law School  
*“The Local Role in Bridging the Clean Energy Access Gap”*
- Hannah Wiseman, Florida State University College of Law  
*“Disaggregating Preemption in Energy Law”*
- Michael Allan Wolf, University of Florida Levin College of Law  
*“Redeploying Euclidean Zoning Jurisprudence in the War against Climate Change”*

### **Panel: “Sustainable Water Futures and the Adaptive Governance Project” (Rm. 114)**

- Barbara Cosens, University of Idaho College of Law  
*“A Legal Framework for Adaptation”*
- Robin Kundis Craig, University of Utah College of Law  
*“Balancing Stability and Flexibility”*
- Tony Arnold, University of Louisville Brandeis School of Law  
*“Adaptive Planning and Resilience”*
- Melinda Harm Benson, University of New Mexico  
*“Responding to the Resilience Critics”*

### **Freestanding Presentations: Analyzing the Institutions, Law and Policy of Sustainability (Rm. 118)**

- Lynda Collins, University of Ottawa Faculty of Law  
*“Transformative Adjudication in the Anthropocene”*
- Shi-Ling Hsu, Florida State University College of Law  
*“Sustainable Capital”*
- Tara Righetti, University of Wyoming College of Law  
*“The Expanding Role of the Social Cost of Carbon in Energy Project Development”*
- Alejandro Camacho, University of California-Irvine School of Law  
*“NEPA, the ESA, and the Functional Tradeoffs of Inter-Agency Coordination”*



## Keynote Lunch Session

12:10 p.m. – 1:20 p.m.:

### Lunch, Morrison Laureate Address & Keynote Address (Great Hall)

Morrison Laureates: Dave Owen, University of California-Hastings College of Law & Colin Apse, The Nature Conservancy  
*Trading Dams*, 48 U.C. Davis L. Rev. 1043 (2015)

Keynote: Holly Doremus,  
James H. House and Hiram H. Hurd Professor of Environmental Regulation  
University of California-Berkeley School of Law  
*"Sustainability in Motion"*

## Session 3

1:30 p.m. – 2:50 p.m.:

### Panel: "Regulatory 'Hinges' Affecting Certain Sustainable Power Technologies" (Rm. 105)

- Gina Warren, Texas A&M University School of Law  
*"Baseload Sustainable Power"*
- K.K. Duvivier, University of Denver Sturm College of Law  
*"Intermittent Sustainable Power"*
- Steven Ferrey, Suffolk University Law School  
*"The Critical Regulatory Role Melding Sustainable Power Sources"*
- Shelley Welton, Yale Law School & Quinnipiac University School of Law  
*"Public Energy"*

### Panel: "The Law and Economics of Sustainability" (Rm. 114)

- Daniel H. Cole, Indiana University Maurer School of Law  
*"Accounting for Sustainable Development: An Update"*
- Jonathan R. Nash, Emory University School of Law  
*"Transparency in Grandfathering"*
- Arden Rowell, University of Illinois College of Law  
*"Behavioral Economic Challenges in Sustainability"*
- Josephine van Zeben, Oxford University Faculty of Law  
*"A Triptych of Sustainable Development: the EU Member States, the European Union, and International Norms"*

### Panel: "Sustainability and Law Practice: The Hard Work" (Rm. 118)

- Federico Cheever, University of Denver Sturm College of Law  
*"Sustainability and the Federal Public Lands"*
- John Dernbach, Widener University Law School  
*"Sustainable Development in Law Practice: What the Leaders Say"*
- Nancy McLaughlin, University of Utah S.J. Quinney College of Law  
*"Conservation Easements: Contemporary Issues and Challenges"*
- Patience Crowder, University of Denver Sturm College of Law  
*"Collective Impact: Private Contracts for the Public Good"*

## Session 4

3:00 p.m. – 4:20 p.m.:

### Panel: "Natural Resource Damages" (Rm. 105)

- Karen Bradshaw Schulz, ASU Sandra Day O'Connor College of Law  
*"Settling for Natural Resource Damages"*
- Michael Livermore, University of Virginia School of Law  
*"The Measurement of Subjective Value and Its Relation to Contingent Valuation and Environmental Public Goods"*
- Sanne Knudsen, University of Washington School of Law  
*"The Long-Term Tort and Complications of Valuing Ecological Harms"*
- Peter Appel, University of Georgia School of Law  
*"Sustainability Remedies"*

### Freestanding Presentations: Paradigms in Sustainability Law (Rm. 114)

- Edward Rubin, Vanderbilt University Law School  
*"Motivations of Climate Change Deniers"*
- Jill Fraley, Washington and Lee University School of Law  
*"Surface Water Liability and Climate Change"*
- Rhett Larson, ASU Sandra Day O'Connor College of Law  
*"Law in the Time of Cholera"*
- Jane Cohen, University of Texas School of Law  
*"Forests and Climate: Re-Setting the Agenda After Paris"*

### Panel: "Food Law and Sustainability: A Tangled Web" (Rm. 118)

- Andrea Freeman, University of Hawaii William S. Richardson School of Law  
*"Food Policy, Sustainability, and Inequality"*
- Alexia Brunet Marks, University of Colorado Law School  
*"Blending Food Safety and Sustainability Goals"*
- Melissa Mortazavi, University of Oklahoma College of Law  
*"Food Policy and Sustainability: The Role of Litigation"*
- Steph Tai, University of Wisconsin School of Law  
*"Agency Coordination and Food Sustainability Goals"*

### 4:30 p.m. – 4:50 p.m.: Closing Remarks (Great Hall)

Dean Douglas Sylvester  
Troy Rule

### 5:00 p.m. – 6:00 p.m.: Conference Reception (Rotunda)

# Conference Speakers

Keynote Speaker

**Holly Doremus**

*Sustainability in Motion*

Holly Doremus is the James H. House and Hiram H. Hurd Professor of Environmental Regulation at the University of California, Berkeley, Associate Dean for Faculty Development and Research, and Co-Faculty Director of the Center for Law, Energy, and the Environment. She serves on the Board of Directors of Defenders of Wildlife and on California's Ocean Protection Council Science Advisory Team. She received her B.S. in biology from Trinity College (Hartford, CT), Ph.D. in plant physiology from Cornell University, and J.D. from the University

of California, Berkeley. After law school, she clerked for Judge Diarmuid O'Scannlain of the United States Court of Appeals for the Ninth Circuit and practiced law in Corvallis, Oregon. She began her teaching career at the University of California, Davis, moving to Berkeley in 2008. Doremus has written extensively about environmental and natural resources law; her research focuses particularly on biodiversity protection, the intersection between property rights and environmental regulation, and the interrelationship of environmental law and science.

**Peter Appel**

University of Georgia

**Patience Crowder**

University of Denver

**Rhett Larson**

Arizona State University

**Arden Rowell**

University of Illinois

**Colin Apse**

The Nature Conservancy

**Lincoln L. Davies**

University of Utah

**Albert Lin**

University of California-Davis

**Edward Rubin**

Vanderbilt University

**Tony Arnold**

University of Louisville

**John Dernbach**

Widener University

**Michael Livermore**

University of Virginia

**Karen Bradshaw Schulz**

Arizona State University

**Sumudu Atapattu**

University of Wisconsin

**K. K. DuVivier**

University of Denver

**Roberta Mann**

University of Oregon

**Sara Seck**

Western University

**Melinda Harm Benson**

University of New Mexico

**Steven Ferrey**

Suffolk University

**Alexia Brunet Marks**

University of Colorado

**Stephanie Tai**

University of Wisconsin

**Alejandro Camacho**

University of California-Irvine

**Jill Fraley**

Washington and Lee University

**Nancy McLaughlin**

University of Utah

**Josephine van Zeben**

Oxford University

**Federico Cheever**

University of Denver

**Andrea Freeman**

University of Hawaii

**Melissa Mortazavi**

University of Oklahoma

**Elizabeth Kronk Warner**

University of Kansas

**Jane Cohen**

University of Texas

**Carmen G. Gonzalez**

Seattle University

**Jonathan R. Nash**

Emory University

**Gina Warren**

Texas A&M University

**Daniel H. Cole**

Indiana University

**Shi-Ling Hsu**

Florida State University

**John R. Nolon**

Pace University

**Shelley Welton**

Yale University

**Lynda Collins**

University of Ottawa

**Bruce Huber**

University of Notre Dame

**Hari Osofsky**

University of Minnesota

**Elizabeth J. Wilson**

University of Minnesota

**Barbara Cosens**

University of Idaho

**Blake Hudson**

Louisiana State University

**Dave Owen**

University of California-Hastings

**Hannah Wiseman**

Florida State University

**Robin Kundis Craig**

University of Utah

**Alexandra B. Klass**

University of Minnesota

**Lee Paddock**

George Washington University

**Michael Allan Wolf**

University of Florida

**Sanne Knudsen**

University of Washington

**Tara Righetti**

University of Wyoming

